

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT HENRY VANCE, #168560,)
Petitioner,)
) No. 1:09-cv-137
-v-)
) HONORABLE PAUL L. MALONEY
MARY K. BERGHUIS)
Respondent.)
_____)

ORDER ADOPTING REPORT AND RECOMMENDATION

Robert Vance, a prisoner under the control of the Michigan Department of Corrections, filed an application for writ of habeas corpus under 28 U.S.C. § 2254. The magistrate judge reviewed the record, and issued a report recommending that Vance's habeas petition be denied. (ECF No. 36.) Vance filed objections. (ECF No. 38.) Having reviewed the objections de novo, the Court finds the report and recommendation accurately states the applicable facts and correctly applies the relevant law. Accordingly, the report and recommendation is **ADOPTED**, over objections, as the opinion of this Court. The habeas petition is **DENIED**.

The Court has further reviewed the record for the purpose of determining whether to issue a Certificate of Appealability. Reasonable jurists would not disagree with the sound conclusions in the report and recommendation. Federal habeas relief will not be granted for violations of Michigan's court rules. For the reasons outlined in the report and recommendation, reasonable jurists would not disagree that the bailiff's ex parte communication with the jury did not violate Vance's constitutional rights. Reasonable jurists would also not disagree with the conclusion that the prosecutor's comments in closing arguments did not so infect the trial with unfairness as to rise to a denial of due process.

Accordingly, Vance's habeas petition is **DISMISSED** and the Court **DENIES** a Certificate of Appealability. **IT IS SO ORDERED.**

Date: June 20, 2013

/s/ Paul L. Maloney

Paul L. Maloney

Chief United States District Judge